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SEP 12 2005

**OFFICE OF PETITIONS**

In re Application of  
Edward C. Villela, et al.  
Application No. 10/806,690  
Filed: March 23, 2004  
Attorney Docket No. DN-2652-2/DIV

ON PETITION

This is a decision on the petition under 37 CFR 1.313(c)(2), filed September 9, 2005 to withdraw the above-identified application from issue after payment of the issue fee.

It does not appear that the petition is signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Philip Braginsky appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. However, if Mr. Braginsky desires to receive correspondence regarding this file, the appropriate power of attorney documentation must be submitted. A courtesy copy of this decision is being mailed to Mr. Braginsky, the petitioner herein. However, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

*Petitioner is advised that the issue fee paid on June 2, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.<sup>1</sup>*

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

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<sup>1</sup>The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

The application is being referred to Technology Center AU 3721 for further processing of the request for continued examination under 37 CFR 1.114.

*Sherry D. Brinkley*  
Sherry D. Brinkley  
Petitions Examiner  
Office of Petitions  
Office of the Deputy Commissioner  
for Patent Examination Policy

cc: PHILIP BRAGINSKY  
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Date : September 12, 2005  
TO : Director, Office of Patent Publication  
FROM : Office of the Deputy Commissioner  
for Patent Examination Policy  
SUBJECT : Withdrawal from Issue of  
  
Applicant(s) : Edward C. Villela, et al.  
Application No. : 10/806,690  
Filed : March 23, 2004

The above-identified application has been assigned Patent No. 6,942,135 and an issue date of September 13, 2005.

It is hereby directed that this application be withdrawn from issue at the request of the applicant.

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of September 13, 2005:

"All reference to Patent No. 6,942,135 to EDWARD C. VILLELA, ET AL. of NEW JERSEY for NAIL GUN DEPTH CONTROL SPACER appearing in the Official Gazette of September 13, 2005, should be deleted since no patent was granted."

*Sherry D. Brinkley*  
Sherry D. Brinkley  
Petitions Examiner  
Office of Petitions  
Office of the Deputy Commissioner  
for Patent Examination Policy

cc: Paul Harrison, Crystal Park 3-441 (FAX-306-2737)  
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